Court No. 3

Criminal Revision No. 121/2003

Lalit Kumar …… Revisionist.

Vs.

Smt. Richa …….. Respondent.

Hon'ble Irshad Hussain, J.

Heard. This is a revision U/s 397 Cr.P.C. against the order dated 3.7.2003 passed by the Family Judge, Family Court Dehradun, whereby granting interim maintenance at the rate of Rs. 2500/- per month to the respondent wife besides a sum of Rs. 100.00 for every day of appearance is fixed in the proceedings U/s 125 Cr.P.C. At the same time it has been alleged that in another proceeding U/S 24 Hindu Marriage Act the respondent-wife had been granted maintenance of Rs. 1500/- per month besides a consolidated sum of Rs. 5000/- as expenses of the litigation. Against the final order passed in that proceedings the appeal has been preferred by the husband and which will come up for hearing before the appropriate bench.

The petitioner had disputed the claim of the respondent-wife regarding his monthly income and according to him he was earning only a sum of Rs. 1500/- per month. He denied the claim of the wife that his income from the business was much higher as the husband and his brother were together earning about Rs.30,000/- per month from joint business of Confectionary and General Provision Store. A clear finding on the merit of the income of the husbands is yet to be recorded after the parties are permitted to adduce their evidence. At the interim stage for the purpose of grant of interim maintenance the contention of the husband should have also been taken into account by the learned Sessions Judge. The learned Sessions Judge has not taken note of it and a sum of Rs. 2500/- per month clearly appears to be on the excessive side. Keeping in view that the wife had been granted Rs. 1500/- per month in collateral proceedings U/S 24 of the Hindu Marriage Act, interim maintenance in the proceedings U/S 125 Cr.P.C. can therefore suitably be reduced. Taking into consideration the

attending factors of the case and the fact that the respondent-wife has no children to support, the interim maintenance is modified and reduced to Rs. 1500/- per month.

In view of the above the revision partly succeed and is to be disposed of accordingly. The impugned order dated 3.7.2003 is modified and the interim maintenance is reduced to Rs. 1500/- per month. The petition is disposed of accordingly. The learned Judge shall try to dispose of the petition U/S 125 Cr.P.C. on merit at the earliest.

(Irshad Hussain, J.)

Dated 26-8-2003
ISB